

EXECUTIVE OFFICER SUMMARY REPORT
February 5, 2003

ITEM: 18

SUBJECT: PUBLIC HEARING: Administrative Civil Liability with Mandatory Minimum Penalties against the City of San Diego, San Diego Convention Center Groundwater Dewatering Discharge to San Diego Bay, for Violation of Order No. 2000-90, NPDES Permit No. CAG919001. If the discharger elects to waive their right to a hearing, the matter will be removed from this agenda to allow for a 30-day public review period. (Tentative Order No. R9-2003-0038 [*Document No. 1*]) (Rebecca Stewart)

PURPOSE: To accept testimony from the City of San Diego, Regional Board staff, and the public regarding the allegations and recommendation of civil liability in Complaint No. R9-2003-0014 (*Document No. 2*) prior to deciding whether to adopt Tentative Order No. R9-2003-0038.

PUBLIC NOTICE: The public and the City of San Diego were notified of the hearing in the Agenda Notice for today's meeting that was distributed on January 17, 2003, and by posting on the Regional Board web site.

DISCUSSION: The City of San Diego is alleged to have violated Order No. 2000-90 (and Order No. 95-25 which was superseded by Order No. 2000-90 on June 14, 2000) forty-six times from January 2000 through August 2002. These violations were due to effluent limitation exceedances for chronic toxicity, acute toxicity, total suspended solids, and copper as reported in self-monitoring reports during this time period. Attachment No. 1 to Complaint No. R9-2003-0014 details each violation and whether a Mandatory Minimum Penalty (MMP) applied. The City of San Diego was notified by the Regional Board after submitting each self monitoring report that these violations were subject to MMPs under Water Code section 13385.

On March 1, 2001 a newly constructed, single submerged discharge outfall became operational eliminating the use of two

separate outfalls for sumps 1&2 and 3&4. Although the City continued to submit effluent monitoring data from both sump 1&2 and sump 3&4 rather than data from the now combined effluent stream, the Regional Board considers violations of like constituents occurring on the same day in both sump 1&2 and sump 3&4 to be a single violation and assessed one \$3,000 penalty as reflected in Attachment No. 1 to Complaint No. R9-2003-0014.

On April 26, 2002, the Complaint was originally issued to the City of San Diego for violations incurred from January 2000 through December 2001. The hearing was postponed to allow the City additional time to pursue solutions to the reoccurring effluent limitation violations. The City's request was granted and the public hearing was postponed. Complaint No. R9-2003-0014 supercedes the previously issued Complaint and adds additional violations reported through August 2002 with a proposed civil liability of \$129,000.

To date the City has not submitted written comments to the Complaint. Comments received prior to the supplemental mailing will be forwarded to the Regional Board along with staff analysis and recommendations if necessary.

LEGAL CONCERNS:

None at this time.

SUPPORTING
DOCUMENTS:

1. Tentative Order No. R9-2003-0038
2. Complaint No. R9-2003-0014
3. Location Map

RECOMMENDATION:

Adopt Tentative Order No. R9-2003-0038.